

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

PATRICIA COTTEN,

Plaintiff,

CIVIL ACTION NO. 04-CV-73508-DT

vs.

DISTRICT JUDGE GERALD E. ROSEN

SHERRY L. BURT,  
et. al,

MAGISTRATE JUDGE MONA K. MAJZOUN

Defendants.

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**ORDER DENYING DEFENDANTS' MOTION FOR PROTECTIVE ORDER  
STAYING DISCOVERY (DOCKET # 39) AND DENYING PLAINTIFF'S  
MOTION TO COMPEL DISCOVERY (DOCKET # 38)**

Plaintiff Patricia Cotten filed the instant complaint pursuant to 42 U.S.C. § 1983 and is proceeding *in forma pauperis*. Plaintiff contends that the Defendants violated her constitutionally secured civil rights. The Defendants are Warden Sherry Burt, Captain Francine Powell, Lieutenant Sherman Campbell and an unidentified individual designated as John Doe. The Defendants are Michigan Department of Corrections ("MDOC") employees working at the Southern Michigan Correctional Facility ("JMF"), located in Jackson Michigan.

On September 1, 2006 Plaintiff filed a Motion for Leave to File Discovery, seeking Defendants' responses to various Interrogatories and Requests for Production of Documents. The Court construes Plaintiff's Motion as a Motion to Compel Discovery. Defendants did not directly respond to Plaintiff's Motion. Rather, on September 11, 2006, Defendants filed a Motion for Protective Order Staying Discovery. Defendants argued that discovery should be

stayed because Defendants had filed a motion for summary judgment, which was pending at that time, which would dispose of the case. District Court Judge Gerald E. Rosen has referred this case to the undersigned for all pretrial proceedings. These motions are now before this Court, having dispensed with oral argument pursuant to Local Rule 7.1.

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On September 21, 2006 Judge Rosen entered an Order adopting a report and recommendation of the undersigned that Defendants' motion for summary judgment be denied without prejudice. Because Plaintiff's claims have survived Defendants' motion for summary judgment, there remains no reason to stay discovery. Defendants' Motion for a Protective Order to Stay Discovery (Docket # 39) is therefore **DENIED**.

Defendants have not responded to Plaintiff's Motion for Leave to File Discovery. The responses and documents sought by Plaintiff may be relevant and not privileged discovery, but it does not appear that Plaintiff has served her Interrogatories and Requests for Production of Documents on Defendants pursuant to Federal Rules of Civil Procedure 26, 33, and 34. Rather, it appears that Plaintiff merely filed her discovery requests with the Court, in violation of Rule 26.2 of the Local Rules of this Court. Plaintiff's Motion for Leave to File Discovery (Docket # 38) is therefore **DENIED** without prejudice.<sup>1</sup>

**IT IS SO ORDERED.**

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<sup>1</sup> The Court notes that it has entered a separate Scheduling Order setting forth the relevant cut-off dates for discovery and dispositive motions.

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: October 11, 2006

s/ Mona K. Majzoub  
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**MONA K. MAJZOUN**  
**UNITED STATES MAGISTRATE JUDGE**

**Proof of Service**

I hereby certify that a copy of this Order was served upon Patricia Cotten and Counsel of Record on this date.

Dated: October 11, 2006

s/ Lisa C. Bartlett  
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**Courtroom Deputy**